

BOARD OF LICENSE COMMISSIONERS

City Hall, 718 Main Street

Fitchburg MA 01420

(978) 345-9557

William A. Judge, Chairman

Robert A. Bourque

David F. Arsenault

MINUTES OF MEETING

The regular meeting of the Board of License Commissioners was held on June 2, 2008 in the Veterans Memorial Room, City Hall, Fitchburg, and called to order by Commissioner Judge at 6:00 PM. Commissioners Robert Bourque and David Arsenault were present.

I. REVIEW AND ACCEPTANCE OF MINUTES FROM THE PREVIOUS MEETING.

The minutes from the meeting held on May 19, 2008 were reviewed, approved and signed.

II. NEW APPLICATIONS

Fitchburg Senior Center, 14 Wallace Ave. For Special One Day All Alcoholic Beverages License for Country Band from 7PM to 12AM on June 14, 2008 in O'Neil Hall at 14 Wallace Ave.

Mr. Jon Ricciutti was present. Approved 3/0.

Christian Performing Arts Center, Inc. , 914 Main St., For Special One Day Wine and Malt Beverages License for Reception – Private Invitation from 6PM to 8PM on June 11, 2008 at 914 Main Street. (*Wine to be served not sold.*)

Mr. Peter Cormier and Ms. Ellen Guglietti were present. Commissioner Bourque stated that if they are not selling alcohol and the owners of the building are not requiring them to obtain a license then they do not need a license. No action taken.

Rome Amico, Inc., 50 Whalon St., for Transfer and Change of Location of All Alcoholic Beverages Restaurant License to Center Ice Bar and Grill, LLC, 68 Airport Road, Thomas Perla, Manager.

Mr. Andy Rome and Mr. Brian DeVellis were present.

It was noted that the application did not include a zoning determination for the proposed location, Form A for the proposed manager, CORI release for the proposed manager, or Form 997 which are all required. Application not accepted, incomplete application returned to the applicant and continued to June 16, 2008 by vote of 3/0.

Nu-Nu, Inc., 14,16,18 Putnam St. for Transfer of All Alcoholic Beverages Restaurant License to Tati, Inc. d/b/a Level Entertainment, 14,16,18 Putnam St., Tam Phan, Manager.

Application accepted and sent to a Public Hearing on June 16, 2008 3/0.

E. Failte, Inc. d/b/a Bill Bailey's Package Store, 25 John Fitch Highway, John Hebert, Manager, For New Officer/Director and New Stockholders.

Application accepted and sent to a Public Hearing on June 16, 2008 3/0.

E.C. Peerless, Inc. d/b/a Peerless Package Store, 528 John Fitch Highway, Judith Hebert, Manager For New Officer/Director and New Stockholders.

Application accepted and sent to a Public Hearing on June 16, 2008 3/0.

III. HEARINGS

Sook Lee Huynh, d/b/a Topps Liquors, 128 Water St. for Transfer and Pledge of License of Annual Retail Package Store All Alcoholic Beverages License to Maraswami Corporation d/b/a Topps Liquors, 128 Water St., Kalpesh Patel, Manager.

Hearing held. Mr. Kalpesh Patel and his attorney Joseph Devlin were present. No one spoke in favor of or in opposition to the application. Approved 3/0. (To be sent to ABCC for final approval.)

IV. CONTINUED SUMMONS HEARINGS

Andrew I. Rome to discuss construction of building at 50 Whalon St.

Dismissed 3/0.

Nu-Nu, Inc. c/o Michelle Fife to discuss: No Manager of Record; Alleged violation of CMR 204:205-Permitting a disturbance on premise; Non-cooperation with Fitchburg Police Dept. (FPD Report #08-2565-OF); Status of establishment operations; Non-responsive to requests from ABCC re: Change of Mgr. application. **Present were Michelle Fife, Scott Gibeault, Michael Gibeault, their attorney James Cipoletta and their hired court stenographer Karen Goldenberg.**

Chairman Judge read the summons for the meeting. Attorney Cipoletta stated that he learned one and one half hours ago that Mr. Gibeault had named Chairman Judge a defendant in a personal lawsuit and suggested that Chairman Judge may want to consider recusing himself from the hearing. Mr. Scott Gibeault stated that someone in the audience was ready to serve the summons to Chairman Judge. Chairman Judge asked Mr. Gibeault to respect the deliberations occurring in the public hearing. He stated that he had no knowledge of any lawsuit and therefore would not recuse himself.

Chairman Judge asked Michelle Fife to show identification to ascertain her identity – which she did (driver's license).

Chairman Judge asked Attorney Cipoletta if he had the documents requested for the hearing that were listed in the fax sent to him on May 20, 2008. (Fax had requested that the following items be brought to the June 2, 2008 meeting – Checking account records, payroll records, all contracts with entertainers and all purchase slips with alcohol suppliers and any other wholesale supplier.) Attorney Cipoletta stated that he did not have the requested records. He stated that he had received the fax request. He stated that if the Commission wanted the aforementioned documents they should have been subpoenaed.

Mr. Scott Gibeault stated that the ABCC just completed a full investigation of the establishment and had requested the same aforementioned documents which he submitted to them. He stated that he would contact the ABCC to obtain copies of the documents that he submitted and try to get them to the Commission by the second week of July.

In regards to the hearing issue of "No Manager of Record" Mr. Scott Gibeault reported that the issue with the unpaid unemployment tax to the Dept. of Unemployment has been resolved and that they have paid the outstanding amount. He presented an original paid receipt. This unpaid tax was the reason that the Change of Manager application naming Mr. Michael Gibeault was "Returned with No Action" from the ABCC. Chairman Judge instructed Mr. Gibeault to make a copy of the receipt and forward it to the Clerk's office tomorrow so that their Change of Manager application may be re-submitted to the ABCC for reconsideration. Mr. Gibeault agreed to do so.

Hearing continued to a special meeting to be held on August 18, 2008 3/0.

The Clerk was instructed to contact ABCC Investigator Timothy Hooten to request the findings of the investigation that Mr. Gibeault reported.

V. SUMMONS HEARING

Fourteen Mill Street Corporation d/b/a The Cellar, 14 Mill St., Frederick Blake, Manager to discuss Outdoor Patio at 14 Mill St.

Mr. Fred Blake was present. Chairman Judge read aloud the new ABCC regulations regarding Outdoor seating. The Commissioners reviewed and clarified with Mr. Blake the outdoor seating diagram for The

Cellar that was discussed, prepared and agreed to by all parties during a meeting of the Commission held in April 2007.

Hearing continued to June 16, 2008 3/0.

VI. OTHER

- Review fees per request of the Mayor
Motion to make no changes to the existing License Commission fees passed by vote of 2/1 (Bourque opposed).
- Taxi driver applications
Approved for two years: April Stuart, Kevin Bosselait, Vikki Stephens, Josue Ortiz and Brian Evans.
- Proposed new regulation: Regarding server training (TIPS or comparable). Propose to require at least one server trained person to be on duty at all times an establishment is open.
Motion to add the following language to License Commission Regulation 3.5, "At least one server trained person must be on duty at all times when an establishment is open." passed by vote of 3/0.
- Discussion: Propose filing petition with City Council to remove License Commission fees from City Code and have them be published solely in License Commission regulations. Currently some fees are in the code and some are not. This action will consolidate all fees in to one site, allow changes of fees to occur without the added expense of changing the City Code but will still require the City Council to approve all fee changes through the petition process.
The Clerk explained that some of the License Commission fees appear in the Code of the City of Fitchburg and some are listed only in the License Commission regulations. The Clerk advocated for consistency in the keeping of the License Commission fees by having them recorded all in one spot – the Regulations. Furthermore, having the fees appear only in the Regulations will eliminate the expense of updating the Code each time the fees are changed. The Regulations are published on-line and are available in the Clerk's office for public review. Per Chapter 94 section 6 of the Code of the City of Fitchburg, any change to License Commission fees will require approval by vote of the City Council.

By vote of 3/0 the Clerk was instructed to file a petition with the City Council requesting that License Commission fees be removed from the City Code and be published solely in the License Commission regulations.
- Any other matter that may come before the Commission as time permits

The meeting adjourned at 8:42 PM.

Respectfully submitted,

Anna M. Farrell, Clerk
Approved:

William A. Judge

David F. Arsenault

Robert Bourque